

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. § 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES HEALTH PROGRAMS SERVICES: AMBULANCES/PARAMEDICS

PREAMBLE

1. Sections Affected
R9-13-1503
Exhibit 1
- Rulemaking Action
New Section
New Exhibit
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statute: A.R.S. § 36-2205(A)
Implementing statute: A.R.S. § 36-2205(C)
3. The effective date of the rules:
November 27, 1995
A list of all previous notices appearing in the Register addressing the exempt rule:
None published.
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Toni Brophy, Medical Director
Address: Office of Emergency Medical Services
1651 East Morten, Suite 120
Phoenix, Arizona 85020
Telephone Number: (602) 255-1170
Fax Number: (602) 255-1134
6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:
The rule is the protocol for drug box procedures and minimum standards for emergency prehospital care providers together with a drug list, which was approved by the Medical Direction Commission on July 28, 1995, in accordance with A.R.S. § 36-2204. This protocol identifies drug box procedures for use by advanced life support personnel. This protocol also identifies minimum standards for drug box exchange and drug supply standards.
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.
8. The summary of the economic, small business, and consumer impact:
Not applicable.
9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
Not applicable.
10. A summary of the principal comments and the agency response to them:
Not applicable.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
12. Incorporations by reference and their location in the rules:
None.
13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES

HEALTH PROGRAMS SERVICES: AMBULANCES/PARAMEDICS

ARTICLE 15. MEDICAL DIRECTION PROTOCOLS FOR
EMERGENCY MEDICAL TECHNICIANS

Section

R9-13-1503. Protocol for Drug Box Procedures and Minimum Standards for Emergency Prehospital Care Providers

ARTICLE 15. MEDICAL DIRECTION PROTOCOLS FOR
EMERGENCY MEDICAL TECHNICIANS

R9-13-1503. Protocol for Drug Box Procedures and Minimum Standards for Emergency Prehospital Care Providers

- A. Drug Box procedures are for use by certified EMT-Is and EMT-Ps pursuant to R9-13-402 and R9-13-602. A.R.S. § 36-2205 provides that EMT-Is and EMT-Ps may "render such medications only under the direction of a physician." Physician direction is defined as occurring via either direct communication (person-to-person, 2-way radio, or telephone conversation) or indirect communication (conveyed by an intermediary). Use and/or maintenance of a drug box by emergency prehospital care personnel without this level of physician direction is prohibited.
- B. Periodic modifications of the drug list may include new drugs which will require additional training of the emergency prehospital care personnel. Each certified Advanced Life Support (ALS) Base Hospital's Medical Director shall have the responsibility for implementing the provision of this training.
- C. General Provisions
1. A drug may be administered by emergency prehospital care personnel only by order of an emergency physician via direct or indirect communication or when following approved Standing Orders. The emergency physician is responsible for signing the verification of a telemetry order for delivery to the pharmacy of the receiving hospital within 72 hours for ordered controlled substances.
 2. The drug box contents shall be issued by a base hospital pharmacy to on-duty emergency prehospital care personnel:
 - a. The drug box contents are part of the inventory and records for accountability by the issuing base hospital.
 - b. On-duty emergency prehospital care personnel to whom drug boxes are issued act as agents of the EMS Providers who shall be responsible for the box and shall be accountable to the pharmacy for its contents.
 3. An EMS Provider agency shall be responsible for monitoring recognition of drug expiration dates, evidence of drug deterioration, damage to containers, and illegible labels with timely notification to the issuing pharmacy.
 4. EMS Providers shall be responsible for the security and environmental control of the in-house and on-vehicle storage of a drug box and its contents. Drug box storage in vehicle shall be in a secured compartment.

5. EMS Providers shall be responsible for recording shift assignment of the box to incoming duty personnel. Record of box contents inspection shall be made prior to an individual assuming accountability for the drug box.
 6. When discrepancies of contents are found (i.e., tampered or broken containers, missing drugs, etc.), immediate notification shall be made to the duty supervisor and to the issuing pharmacy for corrective action. An incident report shall be filed with the issuing pharmacy, as necessary. Any incident involving Class II drugs shall be reported to appropriate investigative agencies (State Board of Pharmacy, DPS Division of Narcotics, Drug Enforcement Administration) having jurisdiction over controlled substances.
 7. All drug administrations shall be recorded on the patient's encounter form and a copy filed with the patient's record and receiving hospital's pharmacy.
 8. Each medical facility issuing drug boxes to prehospital care personnel shall develop policy addressing drug box in-house security, issue documentation, and for agent accountability.
 9. EMS Providers having supporting service agreements with ALS Base Hospitals shall acquire and use drug boxes having specifications mutually agreeable between the EMS Provider, the ALS Base Hospital Prehospital Care Committee, and the Pharmacy.
 10. An EMS Provider shall acquire sufficient drug boxes to meet peak emergency response demands within its service area.
 11. A common drug box may be used by emergency prehospital care providers. The drug box shall be supplied with all authorized EMS drugs. Administration of drugs shall be limited to those designated for the appropriate skill level of the care provider.
- D. Exchange Procedures
1. An ALS Base Hospital whose policy mandates a drug-box-for-drug-box exchange shall be supplied with sufficient numbers of boxes by the EMS Provider in order to expedite box-for-box exchange.
 2. An ALS Base Hospital whose policy allows drug-for-drug exchange shall document such exchanges on appropriate record forms.
 3. Drug-for-drug restocking from air transport unit resources is optional depending upon anticipated circumstances to transport to a health care facility. All exchanges shall be identified on the patient's encounter form.
 4. Allow EMS Providers having supporting service agreements with ALS Base Hospitals an appropriate mechanism, as authorized by a medical control authority, for replacement of medications provided to a patient transported to a receiving facility without capability for replacement of approved EMS medications.
- E. Drug Box

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1. When necessary, replace with the authorized Plano 747M with drawer configurations for paramedic or intermediate, or with a container meeting guidelines for drug box approval. Approved soft packs meet these guidelines.
2. Guidelines for approval of an appropriate device for conveying EMS drugs:
 - a. Container to be washable.
 - b. Exterior identifiable as to skill level.
 - c. Securing device may be applied.
 - d. Container to accommodate drugs and quantities of current drug list.
 - e. Have appropriate mechanism for internal location and identification of drugs.
 - f. Capable of compartmentalization.

F. Drug Supply Standards

1. Supply of each agent appearing on the approved Drug List (Exhibit 1) shall be the minimum amount to be carried in the Drug Box.
2. An EMS Provider shall be allowed to carry additional quantities of a drug to satisfy specific needs of the local service area.
3. An EMS Provider shall submit a written request for OEMS approval to carry supplies in excess of minimum amounts.
4. Controlled substances shall not be subject to supply flexibility.

Exhibit 1

**EMT-P DRUG LIST
APPROVED BY MEDICAL DIRECTION COMMISSION, JULY 1995**

AGENT	CONCENTRATION	STANDARD SUPPLY
ADENOSINE	6 mg/ 2 ml	5
ALBUTEROL SULFATE (SULFITE FREE)**	2.5 mg/3 ml NS	2
AMINOPHYLLINE	500 mg/20 ml	2
ASPIRIN, PEDIATRIC CHEWABLE	80 mg (INDEPENDENT DOSE)	4
ATROPINE	1 mg/10 ml	3
ATROPINE	8 mg/20 ml	1
BRETYLIUM	500 mg/10 ml	3
CALCIUM CHLORIDE	1 gm/10 ml	2
CHARCOAL, ACTIVATED*	25 gm	4
DEXTROSE	25 gm/50 ml	2
DIAZEPAM	10 mg/2ml	2
DIPHENHYDRAMINE	50 mg/1 ml	2
DOPAMINE HCL	400 mg/5 ml (PREMIX/DSW OPTIONAL)	2
EPINEPRINE (1:1,000 SOL)	1 mg/ 1 ml	30 ml
	1 mg/ 1 ml	2
EPINEPHRINE (1:10,000 SOL)	1 mg/10 ml	6
FUROSEMIDE	40 mg/4 ml	4
GLUCAGON	1 mg/1 ml	2
ISOETHARINE**	1% 0.5 ml with 3-5 ml NS (PREMIX OPTIONAL NEBULIZATION)	2
LIDOCAINE IV	100 mg/5 ml	3
LIDOCAINE IV	1 gm/25 ml	2
LIDOCAINE IV	2 gm/500 ml (PREMIX/DSW OPTIONAL)	1
MAGNESIUM SULFATE	1 gm/2ml	2
METHYLPREDNISOLONE SOD. SUCCINATE	125 mg	1
MORPHINE SULFATE	10 mg/1 ml	2
NALOXONE	0.4 mg/1 ml	20 ml
NIFEDIPINE	10 mg (ORAL CAPSULE)	4
NITROGLYCERIN (NITROSTAT TABLETS)	0.4 mg tab/25 in bottle	1
OXYTOCIN	10 units/1 ml	2
PHENYLEPHRINE (NEO-SYNEPHRINE NASAL SPRAY)	0.5% 15 ml	1
SODIUM BICARBONATE	50 mEq/50 ml	3
THIAMINE	100 mg/1 ml	1
VERAPAMIL	5 mg/2 ml	2
NITROUS OXIDE (NITRONOX)	Nitrous oxide 50%/Oxygen 50% fixed ratio with O2 fail safe device with self-administration mask. Optional)	
SYRINGES:	1 ml (TB 25 g)	2

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	3 ml	4
	10-12 ml	4
	20 ml	2
	50-60 ml	2
FILTER NEEDLES	5 micron 19 g 1 1/2"	3
NON-FILTER NEEDLES		Assorted
INTRAVENOUS SOLUTIONS: (BULK RESTRICTS INCLUSION OF ALL FLUID IN DRUG BOX)		
DEXTROSE, 5% in H2O	250ml BAG	1
L RINGER'S/NORMAL SALINE	1 L BAG	8 L
NORMAL SALINE	250 ml Bag	3
NORMAL SALINE	50 ml Bag	2
SALINE 0.9% lock	1 ml fluid flush	5
*May be excluded as "in-box" item	**Administer by nebulizer	

EMT-I DRUG LIST
APPROVED BY MEDICAL DIRECTION COMMISSION, JULY 1995

AGENT	CONCENTRATION	STANDARD SUPPLY
ALBUTEROL SULFATE (SULFITE FREE)	2.5 mg/3 ml NS	2
ASPIRIN, PEDIATRIC CHEWABLE	80 mg (INDEPENDENT DOSE)	4
ATROPINE	8 mg/20 ml	1
CHARCOAL, ACTIVATED*	25 gm	4
DEXTROSE	25 gm/50 ml	2
DIAZEPAM	10 mg/2ml	2
DIPHENHYDRAMINE	50 mg/1 ml	2
EPINEPRINE (1:1,000 SOL)	1 mg/ 1 ml	2
EPINEPHRINE (1:10,000 SOL)	1 mg/10 ml	6
FUROSEMIDE	40 mg/4 ml	4
GLUCAGON	1 mg/1 ml	2
ISOETHARINE**	1% 0.5 ml with 3-5 ml NS (PREMIX OPTIONAL NEBULIZATION)	2
METHYLPREDNISOLONE	125 mg	1
MORPHINE SULFATE	10 mg/1 ml	2
NALOXONE	0.4 mg/1 ml	20 ml
PHENYLEPHRINE (NEO-SYNEPHRINE SPRAY)	0.5% 15 ml	1
NITROGLYCERIN (NITROSTAT TABLETS)	0.4 mg tab/25 in BOTTLE	1
OXYTOCIN	10 units/1 ml	2
SODIUM BICARBONATE	50 mEq/50 ml	3
THIAMINE	100 mg/1 ml	1
NITROUS OXIDE (NITRONOX)	(Nitrous oxide 50%/Oxygen 50% fixed ration with O2 fail safe device with self-administration mask. Optional)	
SYRINGES	1 ml (TB 25 g)	2
	5 ml	2
	10 ml	2
	20 ml	2
FILTER NEEDLES	5 micron 19 g 1 1/2"	3
NON-FILTER NEEDLES		Assorted
INTRAVENOUS SOLUTIONS (Bulk restricts inclusion of all fluids in Drug Box)		
DEXTROSE, 5% in H2O	250 ml BAG	1
L RINGER'S/NORMAL SALINE	1 L BAGS	8 L
NORMAL SALINE	250 ml BAG	3
SALINE 0.9% lock	1 ml fluid flush	5

*May be excluded as "in-box" item

**Administer by nebulizer

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INTRAVENOUS INFUSIONS TO BE MONITORED BY APPROPRIATE LEVEL OF EMT PERSONNEL

IV INFUSIONS	EMT-B-IV	EMT-I	EMT-P	INFUSION PUMP
AMINOPHYLLINE			X	X
ANTIBIOTICS		X	X	
ANTIARRHYTHMICS:				
PHENYTOIN			X	X
PROCAINAMIDE			X	X
BRETYLIUM			X	
BLOOD			X	
CALCIUM CHLORIDE			X	
COLLOIDS:				
DEXTRAN; HETASTARCH;				
HUMAN SERUM; ALBUMIN;		X	X	
MANNITOL; PLASMANATE				
CORTICOSTEROIDS		X	X	
CRYSTALLOIDS				
(>USUAL/CUSTOMARY)			X	
DIURETICS			X	
DOPAMINE			X	X
ELECTROLYTE ADDITIVES				
(>USUAL/CUSTOMARY)			X	
EPINEPHRINE			X	X
HEPARIN			X	X
ISOPROTERENOL			X	X
LIDOCAINE			X	X
MAGNESIUM			X	X
MORPHINE SULFATE		X	X	X
NITROGLYCERINE			X	X
OXYTOCIN		X	X	
PHENOBARBITAL			X	X
SODIUM BICARBONATE		X	X	
DRUG BOX SOLUTIONS AND				
AGENTS OF AUTHORIZED SKILL				
LEVELS			X	
VITAMINS		X	X	
WATER/ELECTROLYTES				
(COMMERCIAL PREPS)	X	X	X	

COMMENTS: Electrolyte Additives and Crystalloid Solutions - To meet specific patient needs, supplemental additives frequently are made above the "usual and customary amounts" to "commercial preparations". The transferring facility should evaluate the ordered solutions and additives prior to turning a patient over to the care of the appropriate certified EMT personnel for transfer.

OEMS JULY 28, 1995

NOTICE OF EXEMPT RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

PREAMBLE

1. **Sections Affected**

Article 7	<u>Rulemaking Action</u>
R18-13-701	New Article
R18-13-702	New Section
R18-13-703	New Section
2. **The specific authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 49-104 and 49-762(K)
Implementing statute: A.R.S. § 49-762(K)
3. **The effective date of the rules:**

July 1, 1996. The Department of Environmental Quality (Department) has delayed effectiveness of these rules until fiscal year 1997 to allow those who must comply an opportunity to include solid waste fees as a part of their budgets.
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**

1 A.A.R. 262, March 31, 1995
1 A.A.R. 425, May 5, 1995
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Margaret McClelland or Martha L. Seaman
Address: Department of Environmental Quality
3033 North Central Avenue
Phoenix, Arizona 85012
Telephone: (602) 207-2222
Fax: (602) 207-2251
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

In 1983, the legislature mandated that the Department conduct plan review and approve or disapprove plans for solid waste facilities operating within the state. Since that time, the Department has conducted review of solid waste facility plans but, until recently, has been unable to recoup any of the costs associated with the reviews. Solid waste plan reviews are generally quite extensive and time-consuming for the Department.

In 1992, the legislature authorized the Director to collect reasonable fees for direct costs associated with the review of those plans. A.R.S. § 49-762(K) mandates that the Director collect a reasonable fee for review of a solid waste plan and authorizes an exempt rulemaking to establish criteria for those costs.

In preparation for establishing the fees to be charged, the Department contracted with the independent accounting firm of Arthur Andersen & Co. (AA&C) to conduct a fee study to be used by the Department in establishing the hourly rate and fee schedule. In determining the hourly rate, AA&C reviewed the number of hours spent by program staff in reviewing various types of solid waste facility plans and the costs the Department incurred in conducting those plan reviews. The fee study was completed in November 1994 and is the basis for the rates and fees established by the Department in these rules.

The Department proposed and now adopts this exempt rulemaking to establish R18-13-701, R18-13-702, and R18-13-703. The rules set forth fee schedules and the hourly billing rate for review by the Department of solid waste facility plans. The rules clarify for the public what Departmental costs are included in the hourly rate and for what labor hours an applicant will be charged. The rules set forth requirements for billing by the Department, payment by the applicant and the consequences of failure to pay the bill. The rules also contain definitions and provide for review of a final bill by the Director in the case of a dispute involving the bill.

Authority for the solid waste fee rulemaking is found at A.R.S. § 49-762(K), which authorizes the Director to collect a reasonable fee based on the Department's reasonable direct costs for the process, review, approval, or denial of solid waste facility plans.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
8. **The summary of the economic, small business and consumer impact:**

The Department contracted with AA&C to conduct a fee study which was completed in November 1994. The fee study establishes

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the basis for the fees set forth in the rules and is available for review at the Department. No further economic impact statement will be conducted for this rulemaking.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

I. CHANGES IN THE TEXT FROM THE PROPOSED RULE AND THE ADOPTED RULE

Most of the changes to these rules were made as a result of comments received from the public and the explanation for those changes can be found in question 6. The remaining changes were made by the Department for purposes of clarification or to be consistent with statutory changes which have become effective since these rules were proposed. Language which has been stricken through indicates language which has been deleted from the previously noticed rules. Underlined language indicates new language which has been added. All changes to the rules are set forth below:

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**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

ARTICLE 7. SOLID WASTE FACILITY AND SPECIAL WASTE FACILITY PLAN REVIEW FEES

R18-13-701. Definitions

R18-13-702. Solid Waste Facility and Special Waste Facility Plan Review Fees

R18-13-703. Review of Bill

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**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

ARTICLE 7. SOLID WASTE FACILITY AND SPECIAL WASTE FACILITY PLAN REVIEW FEES

R18-13-701. Definitions

In addition to the definitions in A.R.S. §§ 49-701, ~~49-772 and 49-851~~ and 18 A.A.C. 13 and 14, the terms used in this Article shall have the following meanings:

1. "APP" means an Aquifer Protection Permit means the permit that is required pursuant to A.R.S. § 49-241.
2. "Asbestos" means asbestos or asbestos containing materials as defined in A.R.S. § 49-851(1) and regulated pursuant to A.A.C. R18-8-306.
3. "C & D landfill" means a landfill Non-MSWLF that accepts construction or demolition waste as defined in A.R.S. § 49-701.
4. "Complex plan" means any of the following:
 - a. A solid waste facility plan that contains 2 or more different types of waste storage, treatment, or disposal components,
 - b. A solid waste plan for multiple solid waste facilities,
 - c. A solid waste facility plan that includes a special waste management plan or an application for an Aquifer Protection Permit.
4. "Direct cost" means those costs that can be identified specifically with the solid waste facility plan review program. For example, typical direct costs are the employee's salary and fringe benefits package, equipment, travel expenses, and operating supplies.
5. "Fiscal year" means the 12-month period which begins on July 1 and is dated for the next calendar year and ends on the following June 30.
6. "MSWLF" means a municipal solid waste landfill as defined in A.R.S. § 49-701.
7. "Major modifications" means a change to an approved plan which is a substantial change as defined in Paragraph 17, Subparagraphs (a), (b), or (c).
8. "Medical waste facility" means a solid waste facility which stores, collects, treats, or disposes of biohazardous medical waste as defined in medical waste rules adopted by the Department pursuant to A.R.S. § 49-761.
9. "Minor modifications" means a change to an approved plan that is either a substantial change, as defined in Paragraph 17, Subparagraphs (d) or (e), or a demonstration of financial responsibility, in accordance with A.R.S. § 49-770.
10. "New solid waste facility plan" means either of the following:

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- a. A plan submitted for review by the operator of a new solid waste facility, as defined in A.R.S. § 49-701(23).
 - b. The plan submitted by an operator of an existing solid waste facility, as defined in A.R.S. § 49-701, that is operating without prior Department plan approval.
- ~~11.8. "Non-MSWLF" means a landfill that is not a municipal solid waste landfill as defined in A.R.S. § 49-701(14).~~
- ~~12. "PCS treatment facility" means a treatment facility as defined in A.A.C. R18-8-1602(19).~~
- ~~13. "Shredder residue" means waste from the shredding of motor vehicles.~~
- ~~14.9. "Solid waste facility plan" means a plan or the individual components of a plan, such as the design, operational, closure, or post-closure plan, or the demonstration of financial responsibility as required by A.R.S. § 49-770, submitted to the Department for review and plan approval.~~
- ~~15. "Special waste management plan" means a plan that is prepared and submitted to the Department in accordance with A.R.S. § 49-857 for approval pursuant to A.R.S. § 49-857.01.~~
- ~~16. "Storage facility" means a solid waste facility that is designed, constructed, and operated for the purpose of holding of solid waste under any of the following conditions:~~
- ~~a. The solid waste remains on the site of generation and is not stored in a container or tank, unless specifically authorized by law.~~
 - ~~b. Is stored in a container or tank for a period that is longer than 90 days.~~
 - ~~c. The solid waste remains on the site of generation and meets all of the following:~~
 - ~~i. The solid waste is containerized and non putrescible.~~
 - ~~ii. The solid waste is generated at the rate of 1,000 kilograms or less per month.~~
 - ~~ii. The solid waste is stored for a period of time that is longer than 180 days.~~
 - ~~d. The solid waste is taken to an off site facility that holds the solid waste for a period of time that is longer than 90 days.~~
- ~~7-10. "Substantial change" means any of the following:~~
- ~~a. The addition of a major piece of equipment or a structural component as defined in A.R.S. § 49-772(H)(14) which is directly used for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste that is not described in the approved plan, and either of the following:~~
 - ~~i. Results in a discharge as defined in A.R.S. § 49-201(10).~~
 - ~~ii. Requires a state or federal environmental permit.~~
 - ~~b. The addition of a new solid waste operation, which is not described in the approved plan, and which is described by either of the following:~~
 - ~~i. Results in a discharge as defined in A.R.S. § 49-201(10).~~
 - ~~ii. Requires a state or federal environmental permit.~~
 - ~~c. A change or deletions in the structural component, pollution control device, or environmental monitoring device of a solid waste landfill.~~
 - ~~d. An increase in volume of the solid waste landfill design capacity not indicated in the approved plan.~~
 - ~~e. A decrease in personnel or equipment below the minimum required to operate the public solid waste facility as established in the approved plan.~~ a change to an approved solid waste facility plan which the Director has determined requires the submission of an amended facility plan in accordance with design and operation rules adopted pursuant to A.R.S. Title 49, Chapter 4, Article 4.

R18-13-702. Solid Waste Facility Plan Review Fees

A. With each solid waste facility plan submitted for approval pursuant to A.R.S. § 49-762, the applicant shall remit an initial fee in accordance with one of the schedules in this subsection, unless otherwise provided in subsection (B) ~~or (E) of this Section~~. This Section also lists the maximum fees for which the owner or applicant ~~will~~ shall be billed for a plan submitted to the Department for approval. All fees paid shall be payable to the State of Arizona. Fees paid to the Department shall be deposited into the ~~State General Fund, or if Solid Waste Fee Fund established pursuant to A.R.S. § 49-881, unless otherwise authorized or required by law, in a fund administered by the Department.~~

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Schedule A New Solid Waste Facility Plan Review		
	Initial	Maximum
Solid Waste Facilities Plans:		
MSWFL	\$6,1555 <u>5,936</u>	\$38,442 <u>37,074</u>
C & D Landfill and Other Non-MSWLF	\$3,098 <u>2,987</u>	\$23,669 <u>22,826</u>
Other Solid Waste Facilities	\$1,609	\$15,473
Storage Facility	\$1,668	\$11,676
Medical Waste Facility	\$2,502	\$16,044
Transfer Facility	\$2,502	\$16,044
Special Waste Management Plans:		
PCS Treatment Sites	\$556	\$2,462
Shredder Residue	\$556	\$2,383
Asbestos	\$556	\$2,542

Schedule B Major Modifications <u>Substantial Change or Update of</u> <u>Demonstration of Financial Responsibility in accordance with</u> <u>A.R.S. § 49-770 - Solid Waste Facility Plan Reviews</u>		
	Initial	Maximum
Solid Waste Facilities Plans:		
MSWFL	\$3,078 <u>1,187</u>	\$19,221 <u>18,537</u>
C & D Landfill and Other Non-MSWLF	\$1,549 <u>597</u>	\$11,834 <u>11,413</u>
Other Solid Waste Facilities	\$322	\$7,736
Storage Facility	\$834	\$5,838
Medical Waste Facility	\$1,251	\$8,022
Transfer Facility	\$1,251	\$8,022
Special Waste Management Plans:		
PCS Treatment Sites	\$278	\$1,231
Shredder Residue	\$278	\$1,191
Asbestos	\$278	\$1,271

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Schedule C Minor Modifications Solid Waste Facility Plan Reviews		
	Initial	Maximum
Solid Waste Facilities Plans:		
MSWFL	\$1,231	\$7,688
C & D Landfill	\$620	\$4,734
Storage Facility	\$334	\$2,335
Medical Waste Facility	\$500	\$3,209
Transfer Facility	\$500	\$3,209
Special Waste Management Plans:		
PCS Treatment Sites	\$111	\$492
Shredder Residue	\$111	\$477
Asbestos	\$111	\$508

Schedule D C Closure - Solid Waste Facility Plan Reviews		
	Initial	Maximum
Solid Waste Facilities Plans:		
MSWFL	\$1,231 1,379	\$7,688 9,728
C & D Landfill and Other Non-MSWFL	\$620 1,532	\$4,734 10,417
Other Solid Waste Facilities	\$1,226	\$11,949
Storage Facility	\$334	\$2,335
Medical Waste Facility	\$500	\$3,209
Transfer Facility	\$500	\$3,209
Special Waste Management Plans:		
PCS Treatment Sites	\$111	\$492
Shredder Residue	\$111	\$477
Asbestos	\$111	\$508

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- B. For a complex plan, fees shall be determined as follows:
1. The initial fee submitted with the plan shall be equal to the initial fee for the single component with highest initial fee as set forth in schedules in subsection (A).
 2. The maximum fee shall be the sum total of the maximum fee for each individual component as set forth in the schedules in subsection (A), ~~and shall be paid in accordance with subsections (C) and (D).~~
- C. For each plan being reviewed, the Department shall issue an itemized interim bill to the applicant ~~within 90 days after the application is administratively complete and every 90 days thereafter until the application is approved~~ with each letter of deficiency or letter of intent to approve the facility plan. The applicant shall pay the interim bill within ~~30~~ 45 days of receipt of the bill. If the interim bill is not paid within ~~30~~ 45 days, the Department shall mail a notice of the past-due balance to the applicant. ~~If the applicant does not pay the interim bill within 30 days of receipt of the notice of past-due balance, the Department shall either cease review of the plan or withhold final approval of the plan pending payment of the interim bill.~~
- D. The Department shall issue a final itemized bill at the same time the Department issues the approval to operate or informs the applicant in writing of denial of approval. If the actual cost of reviewing the plan is less than the initial fee and any interim fees paid, the difference between the actual cost and the amount listed and paid shall be returned to the applicant with a final itemized bill within 30 days of the issuance of the approval to operate, or denial of the approval. If the actual cost of plan review is greater than the corresponding amount listed, the Department shall send the applicant a final itemized bill for the difference between the initial fee and any interim fees paid and the actual cost of reviewing the plan, except that the final bill shall not exceed the applicable maximum fee specified in subsection (A) or (B). Such difference shall be paid in full within ~~30~~ 45 days of receipt of the bill.
- E. The Department shall keep a record of all fees due, including the costs associated with denial of approval. Any amount due the Department shall be paid to the Department within ~~30~~ 45 days of issuance of the approval. If the final bill is not paid within the 45 days, the Department shall mail a notice of past-due balance to the applicant. Failure to pay the amount due within 15 days of receipt of the notice of past-due balance shall result in the automatic initiation of proceedings by the Department for suspension of the permit approval, in accordance with A.R.S. § 41-782, on the 30th day and the suspension shall continue until full payment is received at the Department. If full payment is not received at the Department within 365 days of the date of the approval, the permit approval shall be revoked in accordance with A.R.S. § 41-782. The Department shall review no further plans for an entity which has not paid all fees due for a previous approval or denial of approval.
- F. When determining actual cost under subsection (D), the Department shall use an hourly billing rate for all direct labor hours spent working on the review of the plan, plus any direct cost specified in subsection (I), which were incurred but are not included in the hourly billing rate. ~~The hourly billing rate shall be based on an annual sum of the following solid waste facility plan review program related costs divided by the total number of direct labor hours allocated for solid waste facility plan review for the same year:~~
1. ~~Salary and personnel benefit cost of the plan review technical employees directly involved in the review of solid waste facility plans.~~
 2. ~~Salary and personnel benefit of the plan review support employees such as supervisory and clerical personnel.~~
 3. ~~Other operating expenses attributable to all solid waste facility plan review employees.~~
 4. ~~Per diem expenses.~~
 5. ~~Transportation cost.~~
 6. ~~Reproduction cost.~~
- G. Billable labor hours spent working on the review of solid waste facility plans shall consist of time spent by solid waste plan review technical staff on task specifically related to the processing, approval, or denial of a particular solid waste facility plan, including time at the facility or proposed site inspecting the facility or site, time at a public hearing, time at meetings with the public, or time at meetings with the applicant or the applicant's representatives including the time at a preapplication conference.
- H. Direct labor hours shall not include any of the following:
1. Training necessary for review of a specific plan;
 2. Travel to or from any facility, meetings or hearings which is necessary in conjunction with a plan review;
 3. Time by clerical or supervisory staff, unless the supervisory staff is filling in for a particular technical staff member in that person's absence.
- I. Other allowable direct costs that the Department shall include in the plan review fee, if applicable, are any of the following:
1. Laboratory analysis charges;

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2. Public notice advertising;
 3. Presiding officer expenses;
 4. Court reporter expenses;
 5. Facility rentals;
 6. Contract services;
 7. Other reasonable, direct, plan review-related expenses documented in writing by the Department.
- J. From the effective date of these rules, the hourly rate shall be \$38.30. If the fee schedule or hourly rate is not changed, the current fee schedule and hourly rate shall remain in effect for the following fiscal year. The hourly rate shall be based on an annual sum of the following solid waste facility plan review program-related costs divided by the total number of direct labor hours allocated for solid waste facility plan review for that year:
1. Salary and the costs of employee benefits for plan review technical employees directly involved in the review of solid waste facility plans;
 2. Salary and costs of employee benefits for plan review support employees, such as supervisory and clerical personnel, prorated on a per-employee basis;
 3. Other operating expenses attributable to all solid waste facility plan review employees;
 4. Per diem expenses and travel expenses;
 5. Capital equipment.
- K. This Article shall become effective ~~30 days from the date of publication of the adopted rules in the Arizona Administrative Register on July 1, 1996.~~ An applicant who has submitted an administratively complete plan before the effective date of ~~the~~ this rules Article shall not be required to remit an initial fee and shall be billed only for those direct labor hours and other direct costs incurred by the Department on or after the effective date of the rules. If a plan is administratively incomplete on the effective date of ~~these this rules Article~~, an initial fee for that type of plan shall be paid at the time of resubmission.

R18-13-703. No change.

10. A summary of the principal comments and the agency response to them:

A. General comments and responses:

1. Comment: The impact of these fees will be substantial and those who need to comply need time to budget for them. The Department should stay implementation of these rules until the fiscal year which begins on July 1, 1996, to allow time for budgeting.

Response: The Department agrees and the date of effectiveness will be July 1, 1996.

2. Comment: If the Department is going to charge these fees, the Department needs to comply with time lines set forth in statute for reviews.

Response: The fees are charged on a per-hour basis. The time lines established in statute relate to total processing or cycle time, not hourly plan review time. The Department intends to work diligently to ensure that all deadlines for reviews are met.

B. R18-13-701

1. Comment: R18-13-701(17) The definition for "substantial change" appears to be the same one about which the regulated community has previously expressed concern to the Department. The definition is broad to the point of being ambiguous. This definition could also lead to incongruous results when it is defined for the solid waste rules.

Response: The Department has modified the definition for substantial change to read as follows: "Substantial change" means a change to an approved solid waste facility plan which the director has determined requires the submission of an amended facility plan in accordance with design and operation rules adopted pursuant to A.R.S Title 49, Chapter 4, Article 4.

2. Comment: If the definition of "substantial change" should remain as is, then the phrase "with an approved plan" should be added to the end of R18-13-701(17)(c) to have a consistent reference to an "approved plan" throughout the definition of substantial change.

Response: The definition for "substantial change" has been modified as discussed in comment 1 above.

3. Comment: The definition for "substantial change" should refrain from inclusion of routine activities, such as replacement of solid waste operative machinery, recycling activities, daily cover application, and other pertinent changes required to maintain an efficient operation. It would discourage solid waste facilities from the use of innovative techniques and methods to enhance solid waste facilities.

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Response: Definition has been revised so that those activities are not included.

4. Comment: R18-13-701(17)(d) should be revised to read, "An increase in volume of the solid waste landfill exceeding 25% of the design capacity as indicated in the facilities plan."

Response: The definition has been revised so that R18-13-701(17)(d) has been deleted.

5. Comment: R18-12-701(16) The definition for "storage facility" is inconsistent with the solid waste statute.

Response: Because there are not yet rules in place which regulate storage facilities, the definition for "storage facility" has been deleted from these rules. At the time rules for storage facilities are put in place, a storage facility will pay fees in accordance with the fees listed for "Other Solid Waste Facilities" listed in Schedules A, B, and C.

6. Comment: The Department has included a fee for transfer facilities, even though under A.R.S. § 49-701(25) transfer facilities are excluded from the definition of a solid waste facility.

Response: The Department has determined that references to transfer facilities will be removed from this rulemaking. A category for "Other solid waste facilities" has been included to cover those solid waste facilities which are not landfills. Transfer stations will not be included in this category unless there is a legislative change which subjects transfer facilities to these rules.

7. Comment: If the definition of substantial should remain as is, then the phrase "with an approved plan" should be added to the end of R18-13-701(17)(c).

Response: The definition for "substantial change" has been revised so that a change in response to this comment is not necessary.

R18-12-702

1. Comment: The special waste fees rules are not subject to the exempt rulemaking provisions of A.R.S. § 49-857.

Response: The Department has determined that the special waste fee rulemaking will be done as a separate rulemaking in compliance with the requirements of A.R.S. Title 41, Chapter 6. The rules have been revised to delete references to special waste facility plan review fees and to delete special waste definitions for "asbestos", "PCS treatment facility", "shredder residue", and "special waste management plan".

2. Comment: R18-12-702(E) The requirement that a permit will be automatically suspended if all outstanding fees are not paid to the Department within 30 days of issuance of the permit and remain suspended until full payment is received at the Department is too harsh. The Department should send a notification of delinquency on the 30th day and automatically suspend the permit on the 60th day if payment is not made.

Response: For clarity, references to "permit" have been changed to "approval" to be consistent with statutory references.

Subsection (C) has been revised to require that an itemized interim bill be sent out to the applicant with the deficiency letter or intent to approve the facility plan. This subsection also increases the number of days in which payment of an interim bill must be paid from 30 to 45. It provides, additionally, for notice of past-due balance to be sent to the applicant. The applicant, then, has been given an additional 30 days to pay the bill before the Department takes action to cease review of the plan or withhold final approval pending payment of the interim bill.

Subsection (E) has been revised to extend that time for payment of fees to the Department from 30 days to 45 days. The Department will now mail a notice of past-due balance to the owner or operator on the 45th day after issuance of a letter of approval, instead of the automatically taking action to suspend the approval. The notice of past-due balance will notify the owner or operator that payment must be made within 15 days, or the Department will then automatically initiate proceedings to suspend the permit. If the bill remains unpaid for 365 days after the date of the approval letter, the Department will revoke the approval in accordance with the provisions in A.R.S. § 49-782.

3. Comment: The rules include a fee for medical waste facilities, yet "medical waste facility" is not yet a defined term. The Department should wait until the medical waste rules are in place before fees are included in these rules.

Response: The Department has determined that references to medical waste facilities will be removed from this rulemaking. A category for "Other solid waste facilities" has been included to cover those solid waste facilities which are not landfills. Medical waste facilities will be subject to these rules and will pay fees in accordance with this category when medical waste rules are adopted by the Department.

4. Comment: At this time, the Department does not actively issue approvals for certain types of facilities (e.g., transfer facilities, medical waste). To clarify that fees will not be imposed until design and operating rules are adopted for a particular type of facility, a footnote or other indication to that effect should be added to the proposed fee rule.

Response: The Department has determined that references to specific types of solid waste facilities that are not landfills will be removed from this rulemaking. A category for "Other solid waste facilities" has been included to cover these types of solid waste facilities which are not landfills. Medical waste facilities will not be required to pay a fee for plan review until medical waste rules are adopted by the Department.

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The Department will not add a footnote to the rules but does clarify, through the use of this explanatory statement, that it is the intent of the Department that fees, other than those in the "Other Solid Waste Facility" category, will not be charged for a particular type of facility until design and operating rules are adopted for that particular type of facility.

The Department has deleted the definition for "storage facility" and has deleted from the fee schedules specific references to storage, transfer, and medical waste facilities. A category labeled "Other Solid Waste Facilities" is now included to encompass facilities not specifically listed. The initial and maximum fees in this category are derived from the most conservative minimum and maximum fees for the specific types of facilities which were previously referenced. As rules are put in place governing other solid waste facilities, fees will be charged according to these fee schedules. Schedule C is no longer necessary because the fees for that category have been combined into the schedule of fees for substantial change which is now Schedule B. Schedule "D" is renamed Schedule "C".

On Schedules A, B, and C, after the phrase "C & D Landfill", the phrase "and other Non-MSWLF" has been added to clarify what the fees are for non-MSWLF.

5. Comment: The rules might include some indirect costs, contrary to the provisions of A.R.S. § 49-762(K), which allows the Director to collect fees for "reasonable direct costs, not to include indirect costs".

Response: The Department has not included indirect costs which are prohibited by A.R.S. § 49-762(K). No examples of prohibited costs were given.

The Department has revised R18-13-702(H)(1) and (2) to further clarify that the Department direct labor hours will not include training which is review specific or travel to or from a facility for meetings and hearings which is specific to review of a plan.

6. Comment: Setting up an initial fee for modifications that were previously approved, then setting up a mechanism for returning a portion of the initial fee is unnecessary and inefficient.

Response: The Department disagrees. The Department has determined that the requirement of an up-front initial fee is a reasonable way of structuring a fee program. Because the Department program which reviews plans is supported by the fees collected, it is necessary for the continued operation of that program that some fees be collected up front for this review which could take a period of over four months to complete.

7. Comment: It is unclear whether facilities in several classifications are subject to cumulative fees, i.e. required to pay initial fee for both MSWLF & C&D Landfill classification. ADEQ should specify its intent with regard to multi-classification facilities.

Response - Multi-classification facilities are referred to in the rule as complex plans. R18-13-702(B) addresses how the Department will bill for complex plans.

8. Comment: Schedules A, B, and C contain fees that are higher than those recommended in the AA&C fees study. Those fees should be revised to make them consistent with the fee study.

Response: The Department has revised the fees to be consistent with those in the AA&C fee study.

9. Comment: If the Department collects fees, the Department must establish and maintain measures for timely review of plans.

Response: The Department is bound by the statutory limits on plan review established in A.R.S. § 49-762.

10. Comment: The Department should not be able to charge further fees for later review of areas that previously received no comments from the Department. Review fees for any changes as a result of review comments from the Department should be negotiated between the Department and the customer.

Response: The rate is being established by rule to avoid arbitrary billing rates and is based on the Department's cost to review the plan. The hourly cost to ADEQ to review a plan does not change; however, the time required to complete a review should be less if portions of the plan have been previously reviewed. The Department cannot recover total costs for review, so there is no incentive for the Department to spend more time than necessary to review a plan. There is a process in R18-13-703 for review of charges in dispute.

11. Comment: The time provided for review of a new solid waste facility plan is excessive. The Department should estimate the review time in the schedules, then apply the hourly rates to estimated time of review to determine fees. Any review times associated with public meetings should be itemized separately on a new schedule.

Response: The Department disagrees that the time provided for review for a new solid waste facility is excessive. However, review time for each plan can vary somewhat, depending on complexity of the plan and other factors such as completeness. The Department has based the minimum and maximum fees for all plan reviews in a particular category on estimates of the time for review. However, it would be extremely difficult for the Department to determine a fixed time estimate for the review of each plan which the Department will receive for review. Therefore, the Department has determined that the fee schedules, as set forth, are the most logical method for establishing the fees.

The cost to hold the public meetings will be for the Department staff's time, which does not include travel. The cost of

staff time is always the same throughout the state. Also included will be the cost, if any, for the facility where the hearing is held.

12. Comment: A time frame for final accounting should be set.

Response: R18-13-702(D) provides that ADEQ will send the final bill at the time it notifies the applicant of its final decision to approve or deny the application.

13. Comment: The hourly rate seems to be excessive. A short explanation and documentation of the fees should be included in the regulation for future reference.

Response: Documentation for the hourly rate can be found in the fee study conducted by AA&C. The rule does contain an explanation of the work task and employee times that are billable. The calculations on how the hourly rate and fee schedules were established is too lengthy to adequately summarize for inclusion in the rule. The calculations from the AA&C study are available for public review by contacting the Solid Waste Section or Rule Development Section.

14. Comment: The range between the initial fee and maximum fee is quite broad. The Department should provide periodic notice of accrued billable hours so the final bill does not come as a surprise.

Response: The average time frame for review for a new facility is about 6 months. The applicant will be billed about midway through the process for work done to date for the technical review. The next bill will be the final bill which will cover the public participation costs, with some costs for technical review. The Department believes that this billing schedule is reasonable, and with this schedule the final bill should not come as a surprise to the applicant.

15. Comment: Dividing substantial changes into major and minor modifications is superfluous. Inasmuch as all plan reviews will be charged the same hourly rate, the concept of categories of review and minimum initial fees are unnecessary.

Response: References to major and minor modifications have been removed from the definitions and fee schedules. The rule now references a single category of "substantial change". The initial fees for minor modifications, taken from the stricken Schedule C for "Minor Modifications", are now the initial fees for the new Schedule B covering "Substantial Change or Update of Demonstration of Financial Responsibility in accordance with A.R.S. § 49-770". The maximum fees for major modifications from the schedule for major modifications are now the maximum fees for the new Schedule B covering substantial change.

The heading for Schedule B has been revised to strike the words "Major Modification" and the words "Substantial Change" have been added. Also added is the phrase "or Update of Demonstration of Financial Responsibility in accordance with A.R.S. § 49-770". This language was previously found in the definition for "Minor modifications"; however, since that definition has been deleted, it was necessary to add this phrase to Schedule B to set forth the fees for the required plan updates.

16. Comment: R18-13-701(K) should be deleted. Plans that are being reviewed at the time the fee rules take effect should be grandfathered in and remain under the fee schedule that was in effect at the time the plans were submitted.

Response: The Department disagrees. However, for those plans which are filed prior to effectiveness of these rules, the Department will not require payment of an initial fee. The applicant will be billed, on an hourly basis, for review of the plan after the effective date of the rules.

17. Comment: ADEQ has no incentive not to maximize their revenues. The applicant has no control or recourse to monitor the qualitative and quantitative performance of ADEQ.

Response: The Department disagrees with this comment and with the implication that the Department will bill an applicant for unnecessary charges simply to maximize revenues. The Department will complete each review as expeditiously as possible and the rules contain a process for review of the bill where the applicant disagrees with the bill.

C. Changes initiated by the Department for purposes of clarification:

Article heading: "and Special Waste Facility" was deleted because the special waste portion of rulemaking has been deleted. All references to special wastes have been deleted from this rulemaking.

R18-13-701: References to A.R.S. §§ 49-772 and 49-851 and Chapter 14 have been deleted because those citations are not applicable to these rules.

R18-13-701(1): The acronym "APP" has been deleted because it is not used in the rules. The phrase "the permit" has been added for clarity.

R18-13-701(2): The term "non-MSWLF" has been added and the term "landfill" is stricken for purposes of clarity.

R18-13-701(4): A definition for "direct cost" has been added to clarify what is meant when the term is used in the rule.

The definitions in R18-13-701(2), (7), (8), (9), (12), (13), (15), and (16) have been deleted because references to these terms have been deleted from the rules.

R18-13-702(A): The changes indicated were made for clarification. Reference to the "State General Fund" is stricken, and

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reference to the "Solid Waste Fee Fund" is added in accordance with a statutory change in A.R.S. § 49-881 which became effective since the initial proposal of these rules.

R18-13-702(F): All language in this subsection, beginning with the second sentence, has been stricken and moved to subsection (J). This was done to consolidate the discussion of the hourly rate, and what costs have been included in determining the hourly rate, into the same subsection. The language in subsection (J) is underlined as new language and does not show stricken language to indicate changes made by the Department for clarification, in conformance with the Secretary of State rule writing format. Changes were made to subsection (J) as follows:

1. R18-13-702(J)(1): The phrase "cost of employee benefits for" has been added and the phrase "personnel benefit cost of" has been stricken, for purposes of clarity.
 2. R18-13-702(J)(2): The words "personnel benefit" have been stricken. The phrase "the cost of employee benefits for" has been added. The word "of" has been stricken. A comma has been added after the word "employees". The phrase "prorated on a per-employee basis" has been added. These changes were made for purposes of clarity.
 3. R18-13-702(J)(3): The words "Overhead and" have been stricken. The lower case "o" in "other" has been stricken and an upper case "O" has been added.
 4. R18-13-702(J)(4): The phrase "and travel expenses" has been added at the end of the sentence to further clarify what costs are included in determining the hourly rate.
 5. R18-13-702(J)(5): The words "Transportation cost" have been stricken and the words "Capital equipment" have been added for purposes of clarity.
 6. R18-13-702(J)(6): This paragraph has been stricken because these costs are included in (J)(3).
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
 12. Incorporation by reference and their location in the rules:
Not applicable.
 13. Was this rule previously adopted as an emergency rule?
No.
 14. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

**ARTICLE 7. SOLID WASTE FACILITY PLAN REVIEW
FEES**

R18-13-701. Definitions

R18-13-702. Solid Waste Facility Plan Review Fees

R18-13-703. Review of Bill

**ARTICLE 7. SOLID WASTE FACILITY PLAN REVIEW
FEES**

R18-13-701. Definitions

In addition to the definitions in A.R.S. § 49-701 and 18 A.A.C.13, the terms used in this Article shall have the following meanings:

1. "Aquifer Protection Permit" means the permit that is required pursuant to A.R.S. § 49-241.
2. "C & D landfill" means a non-MSWLF that accepts construction or demolition waste as defined in A.R.S. § 49-701.
3. "Complex plan" means any of the following:
 - a. A solid waste facility plan that contains 2 or more different types of waste storage, treatment, or disposal components.
 - b. A solid waste plan for multiple solid waste facilities.
 - c. A solid waste facility plan that includes a special waste management plan or an application for an Aquifer Protection Permit.
4. "Direct cost" means those costs that can be identified specifically with the solid waste facility plan review program. For example, typical direct costs are the employee's salary and fringe benefits package, equipment, travel expenses, and operating supplies.
5. "Fiscal year" means the 12-month period which begins on July 1 and is dated for the next calendar year and ends on the following June 30.
6. "MSWLF" means a municipal solid waste landfill as defined in A.R.S. § 49-701.
7. "New solid waste facility plan" means either of the following:
 - a. A plan submitted for review by the operator of a new solid waste facility, as defined in A.R.S. § 49-701;
 - b. The plan submitted by an operator of an existing solid waste facility as defined in A.R.S. § 49-701, that is operating without prior Department plan approval.
8. "Non-MSWLF" means a landfill that is not a municipal solid waste landfill as defined in A.R.S. § 49-701(14).
9. "Solid waste facility plan" means a plan or the individual components of a plan, such as the design, operational, closure, or post-closure plan, or the demonstration of financial responsibility as required by A.R.S. § 49-770, submitted to the Department for review and plan approval.

10. "Substantial change" means a change to an approved solid waste facility plan which the Director has determined requires the submission of an amended facility plan in accordance with design and operation rules adopted pursuant to A.R.S. Title 49, Chapter 4, Article 4.

fee in accordance with one of the schedules in this subsection, unless otherwise provided in subsection (B) of this Section. This Section also lists the maximum fees for which the owner or applicant shall be billed for a plan submitted to the Department for approval. All fees paid shall be payable to the State of Arizona. Fees paid to the Department shall be deposited into the Solid Waste Fee Fund established pursuant to A.R.S. § 49-881, unless otherwise authorized or required by law.

R18-13-702. Solid Waste Facility Plan Review Fees

- A.** With each solid waste facility plan submitted for approval pursuant to A.R.S. § 49-762, the applicant shall remit an initial

Schedule A New Solid Waste Facility Plan Review		
	<u>Initial</u>	<u>Maximum</u>
<u>Solid Waste Facilities Plans:</u>		
<u>MSWFL</u>	<u>\$5,936</u>	<u>\$37,074</u>
<u>C & D Landfill and Other Non-MSWLF</u>	<u>\$2,987</u>	<u>\$22,826</u>
<u>Other Solid Waste Facilities</u>	<u>\$1,609</u>	<u>\$15,473</u>

Schedule B Substantial Change or Update of Demonstration of Financial Responsibility in accordance with A.R.S. § 49-770 - Solid Waste Facility Plan Reviews		
	<u>Initial</u>	<u>Maximum</u>
<u>Solid Waste Facilities Plans:</u>		
<u>MSWFL</u>	<u>\$1,187</u>	<u>\$18,537</u>
<u>C & D Landfill and Other Non-MSWLF</u>	<u>\$597</u>	<u>\$11,413</u>
<u>Other Solid Waste Facilities</u>	<u>\$322</u>	<u>\$7,736</u>

Schedule C Closure - Solid Waste Facility Plan Reviews		
	<u>Initial</u>	<u>Maximum</u>
<u>Solid Waste Facilities Plans:</u>		
<u>MSWFL</u>	<u>\$1,379</u>	<u>\$9,728</u>
<u>C & D Landfill and Other Non-MSWLF</u>	<u>\$1,532</u>	<u>\$10,417</u>
<u>Other Solid Waste Facilities</u>	<u>\$1,226</u>	<u>\$11,949</u>

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- B.** For a complex plan, fees shall be determined as follows:
1. The initial fee submitted with the plan shall be equal to the initial fee for the single component with highest initial fee as set forth in schedules in subsection (A).
 2. The maximum fee shall be the sum total of the maximum fee for each individual component as set forth in the schedules in subsection (A).
- C.** For each plan being reviewed, the Department shall issue an itemized interim bill to the applicant with each letter of deficiency or letter of intent to approve the facility plan. The applicant shall pay the interim bill within 45 days of receipt of the bill. If the interim bill is not paid within 45 days, the Department shall mail a notice of the past-due balance to the applicant. If the applicant does not pay the interim bill within 30 days of receipt of the notice of past-due balance, the Department shall either cease review of the plan or withhold final approval of the plan pending payment of the interim bill.
- D.** The Department shall issue a final itemized bill at the same time the Department issues the approval to operate or informs the applicant in writing of denial of approval. If the actual cost of reviewing the plan is less than the initial fee and any interim fees paid, the difference between the actual cost and the amount listed and paid shall be returned to the applicant with a final itemized bill within 30 days of the issuance of the approval to operate, or denial of the approval. If the actual cost of plan review is greater than the corresponding amount listed, the Department shall send the applicant a final itemized bill for the difference between the initial fee and any interim fees paid and the actual cost of reviewing the plan, except that the final bill shall not exceed the applicable maximum fee specified in subsection (A) or (B). Such difference shall be paid in full within 45 days of receipt of the bill.
- E.** The Department shall keep a record of all fees due, including the costs associated with denial of approval. Any amount due the Department shall be paid to the Department within 45 days of issuance of the approval. If the final bill is not paid within the 45 days, the Department shall mail a notice of past-due balance to the applicant. Failure to pay the amount due within 15 days of receipt of the notice of past-due balance shall result in the automatic initiation of proceedings by the Department for suspension of the approval, in accordance with A.R.S. § 41-782, and the suspension shall continue until full payment is received at the Department. If full payment is not received at the Department within 365 days of the date of the approval, the approval shall be revoked in accordance with A.R.S. § 41-782. The Department shall review no further plans for an entity which has not paid all fees due for a previous approval or denial of approval.
- F.** When determining actual cost under subsection (D), the Department shall use an hourly billing rate for all direct labor hours spent working on the review of the plan, plus any direct cost specified in subsection (I), which were incurred but are not included in the hourly billing rate.
- G.** Billable labor hours spent working on the review of solid waste facility plans shall consist of time spent by solid waste plan review technical staff on tasks specifically related to the processing, approval, or denial of a particular solid waste facility plan, including time at the facility or proposed site inspecting the facility or site, time at a public hearing, time at meetings with the public, or time at meetings with the applicant or the applicant's representatives including the time at a preapplication conference.
- H.** Direct labor hours shall not include any of the following:
1. Training necessary for review of a specific plan;
 2. Travel to or from any facility, meetings or hearings which is necessary in conjunction with a plan review;
 3. Time by clerical or supervisory staff, unless the supervisory staff is filling in for a particular technical staff member in that person's absence.
- I.** Other allowable direct costs that the Department shall include in the plan review fee, if applicable, are any of the following:
1. Laboratory analysis charges;
 2. Public notice advertising;
 3. Presiding officer expenses;
 4. Court reporter expenses;
 5. Facility rentals;
 6. Contract services;
 7. Other reasonable, direct, plan review-related expenses documented in writing by the Department.
- J.** From the effective date of these rules, the hourly rate shall be \$38.30. If the fee schedule or hourly rate is not changed, the current fee schedule and hourly rate shall remain in effect for the following fiscal year. The hourly rate shall be based on an annual sum of the following solid waste facility plan review program-related costs divided by the total number of direct labor hours allocated for solid waste facility plan review for that year:
1. Salary and the costs of employee benefits for plan review technical employees directly involved in the review of solid waste facility plans.
 2. Salary and the costs of employee benefits for the plan review support employees, such as supervisory and clerical personnel, prorated on a per-employee basis.
 3. Other operating expenses attributable to all solid waste facility plan review employees.
 4. Per diem expenses and travel expenses.
 5. Capital equipment.
- K.** This Article shall become effective on July 1, 1996. An applicant who has submitted an administratively complete plan before the effective date of this Article shall not be required to remit an initial fee and shall be billed only for those direct labor hours and other direct costs incurred by the Department on or after the effective date of the rules. If a plan is administratively incomplete on the effective date of this Article, an initial fee for that type of plan shall be paid at the time of resubmission.
- R18-13-703. Review of Bill**
- A.** An applicant who disagrees with the final bill received from the Department for plan review and issuance or denial of a solid waste facility plan approval under this Article may make a written request to the Director for a review of the bill and may pay the bill under protest. The request for review shall specify the matters in dispute and shall be received by the Department within 10 working days of the date of receipt of the final bill.
- B.** Unless the Department and applicant agree otherwise, the review shall take place within 30 days of receipt by the Department of the request. Notice of the time and place of review shall be mailed to the requester at least ten working days prior to the review. The Director shall make a final decision as to whether the time and costs billed are correct and reasonable. The final decision shall be mailed to the applicant within ten working days after the date of the review and is subject to appeal pursuant to A.R.S. § 49-769.